

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSE MEJIA, Individually, and On Behalf of All Others
Similarly Situated,

Plaintiff,

-against-

AMPLE FOODS, INC.,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 6/28/2022

1:22-cv-2821-MKV

ORDER OF DISMISSAL

MARY KAY VYSKOCIL, United States District Judge:

Plaintiff initiated this action by filing a complaint on April 5, 2022. [ECF No. 1]. An affidavit of service of summons and complaint was filed on the docket on May 3, 2022. [ECF No. 5]. According to that summons, Defendant's response to the complaint was due May 12, 2022. [ECF No. 5].

After Defendant failed to timely answer or otherwise respond to the Complaint, the Court ordered that any motion for entry of a default judgment be filed by June 27, 2022. [ECF No. 6]. Plaintiff was admonished that “[f]ailure to move for a default judgment by that date may result in dismissal of this action for failure to prosecute, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.” [ECF No. 6].

To date, no responses have been filed and Plaintiff has not prosecuted this case. Accordingly, IT IS HEREBY ORDERED that the above-captioned action is discontinued for failure to prosecute without costs to any party and without prejudice to restoring the action to this Court's calendar if the application to restore the action is made by July 13, 2022. If no such application is made by that date, today's dismissal of the action is with prejudice. *See LeSane v. Hall's Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001) (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630 (1962)).

SO ORDERED.

Date: June 28, 2022
New York, NY

Mary Kay Vyskocil
MARY KAY VYSKOCIL
United States District Judge